

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GNJ CONSTRUCTION LLC

Plaintiff,

-vs.-

**EVERSTREAM SOLUTIONS, LLC
DBA EVERSTREAM**

Defendant.

CASE NO.:

VERIFIED COMPLAINT

Now comes Plaintiff, GNJ Construction LLC (hereinafter, “Plaintiff”) for its complaint against Defendant, Everstream Solutions, LLC dba Everstream (“Defendant”), states and alleges as follows:

THE PARTIES

1. Plaintiff is an Ohio limited liability company whose members are individuals that are citizens of the state of Wisconsin and a primary place of business located in Wisconsin.
2. Defendant is an Ohio limited liability company whose members are individuals or corporations that are citizens of the state of Ohio and a primary place of business located in Ohio.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), as the matter in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different States.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as the Defendant resides in this judicial district and pursuant to the parties' contractual agreement.

GENERAL ALLEGATIONS

5. In or about October 2018, the parties entered into a business relationship, pursuant to which, in exchange for payment from Defendant, Plaintiff was to perform various services related to construction of an outside plant fiber optic network. A copy of this agreement is attached hereto as **Exhibit 1**.

6. Pursuant to the parties' agreement, Plaintiff was to invoice Defendant for the above-described services, and Defendant was to pay those invoices within Forty-Five (45) days of receipt. Copies of invoices (and relevant purchase orders) for each state work was performed in are attached hereto as **Exhibits 2, 3, and 4**.

7. From on or about October 2018 through December 2022, Plaintiff performed on their contractual obligations and submitted timely invoices to Defendant in connection to the work performed and completed.

8. Despite Plaintiff's repeated requests for prompt payment, several invoices are outstanding, and Defendant has continued to drag their feet and failed to pay.

9. Currently, Defendant owes Plaintiff One Million Eight Hundred Sixty-Two Thousand, Eighty-Eight Dollars and Seventy Cents (\$1,862,088.70) – plus interest – for Plaintiff's completed contractual obligations.

FIRST CAUSE OF ACTION **BREACH OF CONTRACT**

10. Plaintiff restates the allegations contained in the paragraphs above as if fully rewritten herein.

11. Pursuant to the October 2018 agreement, Plaintiff has performed all their obligations by performing services desired by Defendant.

12. Defendant has failed to pay Plaintiff the sum of the sum of \$1,862,088.70 together with interest at rate of Eighteen Percent (18%) per annum pursuant to the Agreement.

13. For these reasons listed, Defendant is in clear breach of the Contract entered into in October 2018 by the parties.

14. As a result of Defendant's breach, Plaintiff has been damaged in the amount of \$1,862,088.70 together with interest at the rate of 18% per annum from and after 30 days after the date of each invoice, together with attorney's fees and costs of collection.

SECOND CAUSE OF ACTION
QUANTUM MERUIT

15. Plaintiff restates the allegations contained in the paragraphs above as if fully rewritten herein.

15. Plaintiff performed services related to construction of an outside plant fiber optic network for Defendant in accordance with the Contract.

16. Plaintiff has conferred a benefit upon Defendant for completing such services.

17. At all relevant times herein, Defendant knew, or reasonably show have known, that it was receiving a benefit from the work Plaintiff completed.

18. As of today, Plaintiff has not been fully paid for the benefit conferred upon Defendant, by fulfilling their contractual obligations, a reasonable value of which is \$1,862,088.70.

19. Defendant has been unjustly enriched in the amount of \$1,862,088.70 and has continued to reap benefits from Plaintiff's work without properly compensating Plaintiff for such.

20. As a result of Defendant's conduct Plaintiff has been damaged with ignored, unpaid invoices in the amount of \$1,862,088.70 together with interest at the rate of 18% per annum from and after Thirty (30) Days after the date of each invoice, together with attorney's fees and costs incurred.

THIRD CAUSE OF ACTION
ACCOUNT STATED

21. Plaintiff incorporates the allegations contained in the above paragraphs as if fully rewritten herein.

22. Pursuant to the Accounts Receivable Aging Summary Statement attached here to as **Exhibit 5**, Defendant owes Plaintiff the sum of \$1,862,088.70 together with interest at the rate of 18% per annum from and after 30 days after the date of each invoice, plus attorney's fees and costs incurred herein.

23. Despite repeated requests for payment, Defendant has failed to pay Plaintiff the sum due and owing on account.

FOURTH CAUSE OF ACTION
ACTION ON ACCOUNT

24. Plaintiff incorporates the allegations contained in the above paragraphs as if fully rewritten herein.

25. The parties conducted a series of transactions for which there remains an open, unpaid balance owed by Defendant to Plaintiff in the principal amount of \$1,862,088.70, as reflected in the Accounts Receivable Aging Summary Statement.

26. The Accounts Receivable Aging Summary Statement identifies: (a) Defendant as the party billed; (b) each open invoice, invoice number, invoice date, invoice amount, and due date; and (c) the total outstanding principal balance that Defendant owes to Plaintiff.

27. Again, despite repeated requests for payment, Defendant has failed and/or refused to pay Plaintiff's open invoices, and the principal amount remains open and owed.

28. As such, Plaintiff is entitled to recover from Defendant damages in the amount of \$1,862,088.70, plus interest.

WHEREFORE, Plaintiff, GNJ Construction LLC, demands judgment against Defendant, Everstream Solutions, LLC dba Everstream, as follows:

- A. Compensatory damages in the amount of \$1,862,088.70 together with interest at rate of 18% per annum from and after 30 days after the date of each invoice;
- B. Attorney's fees pursuant to statutory and common law;
- C. Any further relief that this Court deems just and equitable.

DATED: February 15, 2023

Respectfully submitted,

MACK LAW CO., LPA

/s/ Edmond J. Mack

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*Counsel for Plaintiff,
GNJ Construction LLC*

VERIFICATION

I, Timothy L. Conti, as Director of Operations and duly authorized representative of GNJ Construction LLC, pursuant to statute 28 U.S. Code § 1746, verify under perjury that I am over 18 years of age, of sound mind, and capable of making this verification, that I have read the above Verified Complaint, that I have personal knowledge of the same, and that the factual matters stated therein are true and correct.

GNJ CONSTRUCTION LLC

By: 
Timothy L. Conti,
Director of Operations